IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

WP(C).No. 2018 OF 2007(M)

PETITIONER:

J.M. HABITAT APARTMENT OWNERS' WELFARE
ASSOCIATION, SASTRI ROAD, VADUTHALA, ERNAKULAM
REPRESENTED BY ITS PRESIDENT.

BY ADV. SRI.KKM.SHERIF
SRI.P.M.KUNJIMOIDEENKUTTY
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SMT.SHEENA SAMUEL

RESPONDENTS:

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1. THE REVENUE DIVISIONAL OFFICER,
FORTKOCHI.

2. THE TAHSILDAR,
KANAYANNUR TALUK, ERNAKULAM.

3. THE VILLAGE OFFICER,
CHERANALLUR, ERNAKULAM.

GOVT. PLEADER SRI. JULIAN XAVIER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMAN, J.

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W.P.(C) NO. 2018 OF 2007

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DATED THIS, THE 17TH DAY OF JANUARY, 2007

J U D G M E N T

Petitioner is an association of individuals registered under the Travancore - Cochin Literary Scientific and Charitable Societies Act, represented by its President. According to the petitioner, a small extent of 200 sq. ft. alone is owned by the Society as such. This is a building where there are 89 individual flats belonging to different owners. Petitioner's contention is that for the purpose of assessment of building tax, notice is issued only to the Society and not to the individual owners. He has also some grievance in making the assessment treating the entire building as a unit. If the assessment is made on the entire owner of the building, necessarily it is the builder to be assessed. On the other hand, if the funds have come from different flat owners during construction, then it has to be assessed separately as held by this Court in **Kurian George vs. Tahsildar** (1995(2) KLT 457 and **Balu v. State of Kerala** (1994(2) KLT 42). These contentions has to be looked into while making assessments by the officer. An effective disposal of the case is therefore possible only if notice is issued

to the affected parties.

2. In such circumstances, individual notices shall be given to all the flat owners as per Ext.P4 list furnished and also to the builder before finalizing the assessment. I find that Ext.P5 order is passed without adverting to the position of law as held by this Court in the decisions cited supra. Ext.P5 is quashed so as to enable the authority to pass fresh orders in compliance with the direction as above.

The writ petition is disposed of as above.

P.R. RAMAN,
JUDGE.

knc/-